

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

TAVARES J. BROWNING,

Plaintiff,

v.

RON NEAL,

Defendant.

CAUSE NO. 3:21-CV-542-JTM-MGG

OPINION AND ORDER

Tavares J. Browning, a prisoner without a lawyer, filed an amended complaint (DE # 26) alleging that, on April 30, 2021, his cell house was shaken down by officers wearing masks and other devices that concealed their identities. Five to seven officers arrived at his cell and began shouting demands. He was told to strip down, turn around, and cuff up. The officers then tried to cuff Browning up using a single pair of zip ties. Browning's build is such that he cannot be cuffed with a single pair of zip ties. Throughout his incarceration, he has been cuffed with two pairs of zip ties. The officers suggested that Browning was not cooperating, but he explained that he could not comply with their demands. The officers threatened to "light him up" if he did not comply. Soon after, he was shot in the head with a paintball gun at close range. He was never properly restrained, but his skin was injured when the zip tie became stuck, resulting in significant pain.

Browning was granted leave to proceed against Warden Ron Neal for the sole purpose of identifying the unnamed officers personally involved in using excessive

force against him on April 30, 2021, as described in the amended complaint, and in violation of the Eighth Amendment. (DE # 27.) Following discovery, Browning has amended his complaint to identify six individuals he believes were involved in the attack: Charles Herr, Elizabeth Johnson, Raymond Smith, Michael Johnson, Tristen Killer, and Khalid Yacoub. For the reasons set forth in this court's earlier screening order (DE # 27) Browning will be permitted to proceed on this claim.

The court notes that the defendants have already appeared and answered the amended complaint. Therefore, there is no need to order service of process or a response to the amended complaint.¹

For these reasons, the court:

(1) GRANTS Tavares J. Browning leave to proceed against Charles Herr, Elizabeth Johnson, Raymond Smith, Michael Johnson, Tristen Killer, and Khalid Yacoub for using excessive force against Browning on April 30, 2021, in violation of the Eighth Amendment; and

(2) DISMISSES all other claims.

SO ORDERED.

Date: May 14, 2024

s/James T. Moody
JUDGE JAMES T. MOODY
UNITED STATES DISTRICT COURT

¹ Should the defendants wish to amend their answer following review of this order, they may file a motion for leave to amend.